

JUL 25 1997

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
MCI Telecommunications Corp.'s Petition)	
for Rulemaking Regarding Local Exchange)	Rulemaking No. 9108
Company Requirements for Billing and)	
Collection of Non-Subscribed Services)	

BELL ATLANTIC AND NYNEX COMMENTS

Bell Atlantic¹ and NYNEX² oppose the petition for rulemaking filed by MCI Telecommunications Corp. ("MCI"). There is no reason for the Commission to initiate a rulemaking proceeding simply to address a contractual dispute between MCI and another local exchange carrier (LEC). MCI should instead file a complaint in the appropriate forum.

The Commission should also reject MCI's petition because it is based on the false premise that billing services are not competitive. The Commission has consistently and correctly found that it should not regulate LEC billing services since they are fully competitive. MCI offers nothing but conclusory assertions to support its request for regulation of these competitive services.

¹ The Bell Atlantic telephone companies ("Bell Atlantic") are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; and Bell Atlantic-West Virginia, Inc.

² The NYNEX Telephone Companies are New York Telephone Company and New England Telephone and Telegraph Company.

I. THE COMMISSION'S COMPLAINT PROCESSES ARE MORE THAN ADEQUATE TO ADDRESS ANY LEGITIMATE CONCERNS MCI MAY HAVE WITH THE ACTIONS OF PARTICULAR LECs

MCI apparently filed its petition for rulemaking in response to "a major LEC" that "told MCI that it would exercise the 'termination for convenience' clause in its B & C contract and that it was undertaking an 'across-the-board' approach to terminate, or renegotiate on much more favorable terms, all of its B & C arrangements with IXCs."³ Neither Bell Atlantic nor NYNEX have taken such action. MCI's dispute is with another carrier.

Rather than initiate a proceeding against that particular carrier, MCI asks the Commission to embark on a broad rulemaking proceeding. If MCI believes that any LEC is breaching its contractual obligations or acting unlawfully, it can and should file a complaint against that carrier in the appropriate forum. MCI has apparently decided not to do so. That decision, however, is no justification for the rulemaking proceeding MCI now asks the Commission to initiate.

II. THERE IS NO BASIS FOR THE COMMISSION TO EXERCISE JURISDICTION OVER LEC BILLING SERVICES

MCI's proposal to regulate LEC billing services hinges on the premise that there are no competitive alternatives to those services. For more than 10 years, the Commission has found precisely the opposite. LEC billing services have faced competition since at least 1985 and that competition has increased -- not decreased -- over the years.

³ MCI Petition at 6.

When the Commission detariffed LEC billing services in 1986, it concluded that “billing and collection services provided by local exchange carriers are not subject to regulation under Title II of the Act.”⁴ The Commission also determined that it could not exercise its ancillary jurisdiction under Title I unless it would “be directed at protecting or promoting a statutory purpose.”⁵ The Commission further concluded that “because there is sufficient competition to allow market forces to respond to excessive rates or unreasonable billing and collection practices on the part of exchange carriers, no statutory purpose would be served by continuing to regulate billing and collection service for an indefinite period.”⁶

The Commission’s findings that LEC billing services are subject to sufficient competition were well documented. The record clearly showed that “competition is defined not only by credit card companies, collection agencies, service bureaus and the LECs, but by the customers (ICs) themselves.”⁷ It also showed that “there are no barriers to entry” and that “capital costs are relatively low.”⁸

The Commission reiterated its conclusions that LEC billing services are competitive, even for non-subscribed services, in a recent case on which MCI relies. In

⁴ In the Matter of Detariffing of Billing and Collection Services, 102 F.C.C.2d 1150, 1170 (1986).

⁵ *Id.* (quoting Second Computer Inquiry, 77 F.C.C.2d 384, 433 (1979)).

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* at 1171.

Audio Communications, the Commission found that competition for billing services for non-subscribed 900 services “are open to even greater potential competition than the LEC billing and collection services, which the Commission found to be competitive in its *Detariffing Order*.”⁹ The Commission specifically found, for example, that credit card companies were providing billing services for these non-subscribed services.¹⁰

MCI offers no evidence to counter the Commission’s sound findings or to show that there has been a dramatic turnaround in the competitiveness of billing services during the last few years. Instead, MCI simply whines about tariffed rate levels for billing name and address information. Any such complaints should have been raised at the time the tariffs were filed, not now.

⁹ In the Matter of Audio Communications, Inc. Petition for a Declaratory Ruling that the 900 Service Guidelines of US Sprint Communications Co. Violate Sections 201(a) and 202(a) of the Communications Act, 8 F.C.C. Rcd 8697, 8699 (1993).

¹⁰ *Id.* at 8700.


CONCLUSION

The Commission should deny MCI's petition for rulemaking. The market for billing services is fully competitive and there is no justification for the Commission to regulate it.

Respectfully submitted,

The Bell Atlantic Telephone Companies


By their Attorney


James G. Pachulski
1320 North Court House Road
Eighth Floor
Arlington, Virginia 22201
(703) 974-2804

Edward D. Young III
Michael E. Glover
Of Counsel

The NYNEX Telephone Companies

By their Attorney


William J. Balcerski
1095 Avenue of the Americas
New York, New York 10036
(212) 395-8148

Dated: July 25, 1997